

ORIGINAL

STATE OF ILLINOIS
BEFORE THE
ILLINOIS COMMERCE COMMISSION

RECEIVED
SEP 4 2003

Illinois Commerce Commission
RAIL SAFETY SECTION

COUNTY OF OGLE, COUNTY OF LEE,)
FLAGG TOWNSHIP ROAD DISTRICT (Ogle)
County) and REYNOLDS TOWNSHIP ROAD)
DISTRICT (Lee County),)

Petitioners,)

vs.)

No. T03-0068

UNION PACIFIC RAILROAD COMPANY and)
THE ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)

Respondents.)

Petition for the construction of a new)
Grade separation to replace the at-grade)
Crossing (AARDOT #175-126R) of the Union)
Pacific Railroad Company and Thorpe Road,)
Southwest of Rochelle, Ogle County,)
Illinois, and for the permanent closure)
of existing at-grade crossings (AARDOT)
#175-127X and AARDOT #175-125J) of the)
Union Pacific Railroad Company and Grange)
Road, all southwest of Rochelle, Ogle)
County, Illinois.)

LATE FILED EXHIBIT

TO THE ILLINOIS COMMERCE COMMISSION:

The Respondent, Union Pacific Railroad Company,
respectfully represents to the Illinois Commerce Commission the
following:

1. That Union Pacific Railroad Company ("Union Pacific"),
is a railroad licensed to conduct business in the State of
Illinois.

DOCKETED

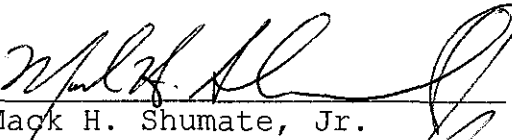
SEP - 4 2003

2. In accordance with Judge June Tate's ruling at the ICC hearing held in her courtroom on August 28, 2003 on this matter, please find attached hereto, the Ordinance No. 02-3088 as passed and approved by the Mayor and City Council of Rochelle, Illinois on April 22, 2003 under which that portion of Brush Grove Road which then intersected with the tracks of Union Pacific, and formed a public at-grade crossing thereat, was vacated. Therefore, the subject crossing no longer physically exists and the need for such crossing has been eliminated by virtue of said vacation.

3. Respondent Union Pacific further specifically requests that all necessary steps be taken by the Illinois Commerce Commission to include this document in the record on this matter.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By: 
Mack H. Shumate, Jr.
Its Attorney

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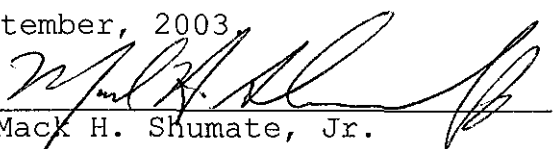
TO ALL PARTIES OF RECORD:

NOTICE OF FILING

Notice is hereby given that the attached Late Filed Exhibit has been filed in the above entitled matter before the Illinois Commerce Commission in Springfield, Illinois at the offices of the Commission as follows: David Lazarides, Director of Processing, 527 East Capitol Avenue, Springfield, Illinois 62701, by mailing the same to the Commission at the aforementioned addresses this 3rd day of September, 2003 by placing the same in the United States mail at 101 North Wacker Drive, Chicago, Illinois at or about 5:00 p.m. on said date.

In addition, copies of the aforementioned Late Filed Exhibit has been sent to all parties of record.

Dated this: 3rd day of September, 2003


Mack H. Shumate, Jr.
Senior General Attorney

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Union Pacific Railroad Company and Grange)
Road, all southwest of Rochelle, Ogle)
County, Illinois.)

CERTIFICATE OF SERVICE

The undersigned certifies that on September 3, 2003, a copy of the foregoing instrument was served upon the following parties by depositing said instrument in the U.S. Mail, with postage thereon fully prepaid, at 101 North Wacker Drive, Chicago, Illinois 60606 before 5:00 p.m., addressed as follows:

STACEY C. HOLLO
Special Assistant Attorney General
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, IL 62764

MICHAEL STEAD
Railroad Safety Program Administrator
Illinois Commerce Commission
527 East Capitol Avenue, 2nd Floor
Springfield, IL 62794

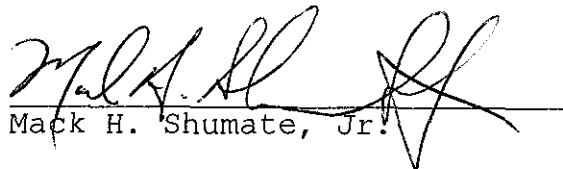
JUNE B. TATE
Hearing Examiner
Illinois Commerce Commission
160 North LaSalle street
Suite C-800
Chicago, IL 60601

CURTIS D. COOK
Ogle County Engineer
1989 Illinois Route 2 South
Oregon, IL 61061

RUSS RENNER
Lee County Engineer
1629 Lee Center Road
PO Box 193
Ambouy, IL 61310

JERRY SEEBACH
Flagg Township - Road Commissioner
11594 East Kyte Road
Rochelle, IL 61068

ALBERT GITTLESON
Reynolds Township
2948 Alva Road
Rochelle, IL 61068


Mack H. Shumate, Jr.

ORDINANCE NO. 02-3088

**AN ORDINANCE VACATING A PORTION
OF BRUSH GROVE ROAD**

**PASSED AND APPROVED BY
THE MAYOR AND CITY COUNCIL
THE 22nd DAY OF April, 2002**

Published in pamphlet form by
authority of the corporate authorities
of the City of Rochelle, Illinois
the 23rd day of April, 2002.

ORDINANCE NO. 02-3088

AN ORDINANCE VACATING A PORTION
OF BRUSH GROVE ROAD

WHEREAS, the City of Rochelle, Illinois (the "City") adopted that certain Ordinance No. 02-3070, entitled "An Ordinance Authorizing the Execution of an Annexation Agreement (Union Pacific Railroad Company)" on February 25, 2002;

WHEREAS, pursuant to the terms of Ordinance No. 02-3070, the City and Union Pacific Railroad Company ("Union Pacific") entered into that certain "Annexation Agreement" dated February 25, 2002 (the "Annexation Agreement");

WHEREAS, pursuant to the terms of the Annexation Agreement, the City proceeded to annex certain territory to the City of Rochelle, including that certain segment of Brush Grove Road described on the plat of vacation attached hereto as Exhibit A and made part hereof (the "Brush Grove Road Vacated Area");

WHEREAS, Union Pacific is the sole owner of property located on either side of the Brush Grove Road Vacated Area;

WHEREAS, there are currently no City-owned utilities or public utilities located within the Brush Grove Road Vacated Area;

WHEREAS, in consideration of Owner's obligations to the City with respect to the creation of a new public Roadway System under the terms of the Annexation Agreement, Owner is not required pursuant to the terms of Article XI of the Annexation Agreement to pay the City monetary consideration in return for the City's vacation of the Brush Grove Road Vacated Area and consequent conveyance of fee title to the same to Union Pacific;

WHEREAS, pursuant to the terms of Article XI of the Annexation Agreement, the City agreed to promptly follow statutory procedures to accomplish the vacation of said Brush Grove Road Vacated Area;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. The recitals set forth above are hereby incorporated into this Ordinance and made part hereof;

Section 2. All that part of Brush Grove Road as shaded and indicated by the words "Proposed Vacation" on Exhibit A, attached hereto, and made part hereof (being the "Brush Grove Road Vacated Area" described above), is hereby vacated and closed, inasmuch as the same is no longer required for public use and the public interest will be served by such vacation;

Section 3. That upon the passage of this Ordinance, title to the Brush Grove Vacated Area shall vest solely in the Union Pacific Railroad Company, a Delaware corporation;

Section 4. That the City Clerk is hereby directed to record with the County Recorder a certified copy of this Ordinance, together with the plat of vacation attached hereto as Exhibit A;

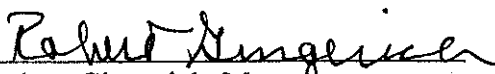
Section 5. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

YEAS: Councilmen Bubik, Colwill, Hann, Kissick and Mayor Gingerich

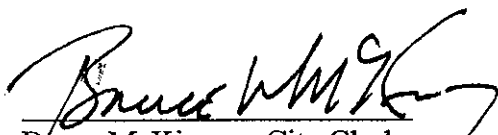
NAYS: None

ABSENT: None

PASSED and APPROVED this 22nd day of April, 2002.


Robert Gingerich, Mayor

ATTEST:


Bruce McKinney, City Clerk

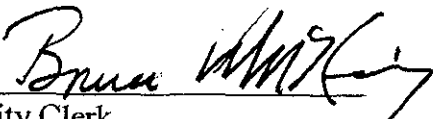
PASSED ~~22nd~~ this 22nd day of April, 2002

APPROVED this 22nd day of April, 2002

PUBLISHED this 23rd day of April, 2002

CERTIFICATION

I, Bruce McKinney, by placing my signature below, do certify that this is a true and correct copy of the official record filed and maintained by me as Clerk for the City of Rochelle.


City Clerk

420 N. Sixth Street, Rochelle, IL 61068

**NOT VALID WITHOUT THE SEAL OF THE
CLERK OF THE CITY OF ROCHELLE**